



**TOWN OF KITTERY**  
200 Rogers Road, Kittery, ME 03904  
Telephone: (207) 475-1329 Fax: (207) 439-6806

**TOWN COUNCIL**

**WORKSHOP AGENDA**

**MONDAY, AUGUST 29, 2016**

**COUNCIL CHAMBERS**

**6:00 P.M.**

The Kittery Town Council will hold a workshop on the following items:

- To meet with the Town Manager and the Port Authority to discuss various items
- To meet with the Town Manager, Police Chief, and Animal Control Officer to discuss animal control issues

Posted: 8/25/16



**REPORT to the KITTERY TOWN COUNCIL & PORT AUTHORITY  
PORT-TOWN ISSUES WORKING GROUP**

**ENCLOSURE1: PORT – TOWN ISSUES WORKING GROUP CHARGE - draft**

**The KITTERY TOWN COUNCIL & PORT AUTHORITY:**

Hereby establishes the Port – Town Issues Working Group as follows:

1. The Working Group consists of the following membership: Council – 2 members; Port Authority – 2 members. The Town Manager is appointed ex officio.

2. The Council & Port Authority wishes the Working Group to investigate, examine, analyze, and report its conclusions with any recommendations it may choose to make on the following issues:

- a. Town Charter – Private & Special law 1961, as amended, Authority
- b. Port Authority member appointment process
- c. Port Authority staff employment status
- d. Port Authority administration support
- e. Liability risk management coverage
- f. Civil – criminal enforcement authorities/responsibilities
- g. Enterprise account

*2011 MOU: Port and harbor program development efforts will be conducted during the period of this agreement with the objective of the KPA operation achieving self-funded enterprise account status*

- h. Revenue generation (e.g. marketing, fees)

*2011 MOU: Appropriate user fees for launch, fuel, pumpout, waste disposal, or any other KPA provided services, in addition to their current customary fees, must be established;*

*2011 MOU: Annual KPA revenue in excess of approved budgetary expense is to be dedicated to reimbursement of Kittery's capital program account*

- i. Expense allocation (e.g. outside legal service)
- j. Capital planning / Asset management
- k. Port & Harbor Rules and Regulations
- l. Achievement of Comprehensive Plan Goals
- m. Other issues as may be identified by the group, residents, staff or other interested parties

**REPORT to the KITTERY TOWN COUNCIL & PORT AUTHORITY**  
**PORT-TOWN ISSUES WORKING GROUP**

- 45 3. The Working Group will hold its meetings at Town Hall; organize itself; meet as often as it  
46 determines necessary to complete its task; and, achieve the objectives laid out herein.
- 47 4. The Council & Port Authority wishes the Working Group to publish notice and agendas of its  
48 meetings; record and publish the meeting minutes; submit periodic progress and status reports no  
49 less often than monthly, with its final report delivered in time for consideration by the bodies at  
50 their respective first June regular meetings.
- 51 5. The Working Group reports to the Council & Port Authority as a whole through its Chairs. It  
52 has no authority with members of municipal staff, except as it may be requested of, and directed  
53 by, the Town Manager.
- 54 6. The Working Group stands dissolved on May 31<sup>st</sup>, 2016, unless its term is extended by the  
55 Council & Port Authority prior to that date.



KPA RTC, ENCLOSURE 2, P&SL EXAMINATION

KITTERY PORT AUTHORITY

PRIVATE AND SPECIAL (as amended)

Chapter 163

AN ACT Creating the Town of Kittery Port Authority

*Be it enacted by the People of the State of Maine, as follows:*

**Sec. 1. Authority established.** The Town of Kittery Port Authority is established, consisting of and governed by a board of 7 members, 6 of whom are appointed by the town council of the Town of Kittery.

COMMENT: Town Charter amendment maintains establishment.

At least 3 of the appointive members must be permanent residents of the Town of Kittery, and the members serve for a term of 5 years, providing that of the first appointment 2 are appointed for a term of one year, one for a term of 2 years, one for a term of 3 years, one for a term of 4 years and one for a term of 5 years. The members serve until their successors are appointed and qualified. Any vacancy occurring in the membership of the appointive members is filled by the town council for the unexpired term.

COMMENT: Town Charter amendment: Change would require Kittery residency for all members and establish consecutive term limit to two, as required in Kittery Town Code, Title 16.

In addition to the 6 appointive members, a member of the Town Planning Board designated by the chair of the Town Planning Board is a member of the port authority, serving for a term of 5 years or until membership on the planning board terminates, whichever occurs first.

COMMENT: Town Charter amendment. No change.

The board shall elect one of its members as chair, one as a vice-chair and one as secretary. The members of the board are not entitled to compensation for their services; but their reasonable expenses incurred in the performance of their duties must be paid by the Town of Kittery.

COMMENT: Moves to ordinance.

## KPA RTC, ENCLOSURE 2, P&SL EXAMINATION

29 The board has the right to adopt and alter a common seal and to  
30 establish bylaws and regulations for the management of its  
31 affairs within the meaning of this authority, the laws of the  
32 State of Maine and the ordinances of the Town of Kittery.

COMMENT: Moves to ordinance.

33 **Sec. 2. Purposes.** The Town of Kittery Port Authority, in  
34 cooperation with the other appropriate planning and development  
35 boards that may exist in the Town of Kittery, shall:

36 **I.** Plan for the maintenance and development of the port, harbor  
37 and navigable tidal waters within the jurisdiction of the Town of  
38 Kittery, in order to foster and stimulate commercial and  
39 recreational use of these areas.

COMMENT: Moves to ordinance.

40 **II.** Aid in the development of salt water fisheries and  
41 associates industries; ship and boat building, repair and storage  
42 and associated industries; pleasure boating, swimming and other  
43 associated recreational uses of these areas and facilities.

COMMENT: Moves to ordinance.

44 **III.** Be authorized and empowered to appoint and compensate a  
45 harbor master, who will enforce the directives of the authority,  
46 such as the placement of moorings, the assignments of anchorage  
47 areas and the movement of traffic, and the use of municipally-  
48 owned wharves, docks, piers and landings.

COMMENT: Moves to ordinance, except appointment by Town Manager  
with Port Authority advice and consent.

49 **Sec. 3. Powers and duties.** In order to enable it to carry out  
50 the purposes hereof, the authority shall:

51 **I.** Have the authority to make all necessary arrangements with  
52 other port authorities of the State of Maine, other states and  
53 federal departments and agencies for the interchange of business,  
54 and for such other purposes as will facilitate and increase the  
55 purposes of this authority.

COMMENT: Moves to ordinance.

56 **II.** Establish offices for the transaction of its business at  
57 such places as, in the opinion of the authority, shall be  
58 advisable and necessary in carrying out the purposes hereof.

COMMENT: Becomes a function of capital improvement program.

## KPA RTC, ENCLOSURE 2, P&SL EXAMINATION

59 **III.** Be authorized and empowered to appoint and compensate a  
60 harbor master, who will enforce the directives of the authority,  
61 such as the placement of moorings, the assignments of anchorage  
62 areas and the movement of traffic.

COMMENT: Moves to ordinance.

63 **IV.** Be authorized to raise funds for defraying the costs of  
64 administration and operation of the authority and projects under  
65 its supervision, through fund appropriation articles in the town  
66 warrant, submitted for consideration at any town meeting, and  
67 through any and all other sources of revenue authorized by this  
68 act.

COMMENT: As a municipal entity, this becomes a natural part of  
municipal operations and requires no change to current practice.

69 **V.** Be custodian of municipally-owned wharves, docks, piers and  
70 landings.

COMMENT: Moves to ordinance.

71 **Sec. 4. Rules and regulations.** Said authority may make such  
72 ordinances, rules and regulations touching municipally-owned  
73 wharves, docks, piers and landings, port captains, pilots and  
74 pilotage, harbors and harbor masters, for the areas herein  
75 defined as it may deem proper and from time to time may modify,  
76 rescind or alter the same. Said rules and regulations shall have  
77 the force and effect of law. Said authority shall fix the fees  
78 of pilotage and a table of such fees shall be attached to the  
79 commission of each pilot.

COMMENT: Moves to ordinance.

80 **Sec. 5. Pilots.** The authority may prescribe the qualifications  
81 of pilots, and from time to time appoint and commission, under  
82 its hand and seal, as many pilots as it may judge necessary, and  
83 remove the same at pleasure, and it shall take from them such  
84 security, by bond or otherwise as it may deem proper.

COMMENT: May need to remain as the Piscataqua River is exempted  
from Maine Pilotage Commission authority in 38 MRS §86A. Could  
request revision to exemption statute and place under State  
board.

85

## KPA RTC, ENCLOSURE 2, P&SL EXAMINATION

86 **Sec. 6. Authority of pilot.** Any pilot appointed by the  
87 authority who has given security for the faithful discharge of  
88 his duties may take charge of any vessel, except pleasure,  
89 coasting and fishing vessels of the United States registry of 150  
90 registered or enrolled tons and under, and except as provided in  
91 section 7, and shall pilot such vessel into or out of the river  
92 and harbor of the Piscataqua, to ports or locations within the  
93 jurisdictional area of this authority, first showing to the  
94 master thereof his appointment, if requested.

COMMENT: May need to remain as the Piscataqua River is exempted from Maine Pilotage Commission authority in 38 MRS §86A. Could request revision to exemption statute and place under State board.

95 **Sec. 7 Fee an offer.** Any master or owner may pilot his own  
96 vessel into the area herein defined, but if a pilot shall speak  
97 and offer service to a vessel, excepting registered or enrolled  
98 vessels of the United States, bound into said area south of a  
99 line drawn east and west from Whale's-back lighthouse, or shall  
100 offer service to a vessel bound out of said area excepting  
101 registered or enrolled vessels of the United States, before they  
102 leave the wharf, he shall be entitled to ½ of the fee specified  
103 in his warrant in case the master declines to employ him, and, on  
104 refusal of payment, may sue for and recover same.

COMMENT: May need to remain as the Piscataqua River is exempted from Maine Pilotage Commission authority in 38 MRS §86A. Could request revision to exemption statute and place under State board.

105 **Sec. 8. Harbor master.** The harbor master appointed by the  
106 authority shall have the authority, under the supervision of the  
107 authority, to oversee the jurisdictional area of this authority,  
108 to preserve and regulate navigation within said waters, to assign  
109 moorings, require the same to be kept in safe condition, to  
110 require the removal of vessels if necessity or an emergency  
111 arises, to inquire into and prosecute all offenses occurring  
112 within his jurisdiction and to perform such duties and enforce  
113 such regulations as the authority shall prescribe. The harbor  
114 master shall have authority to make arrests for offenses under  
115 the provisions of this chapter, as other peace officers are  
116 authorized to do.

COMMENT: Moves to ordinance.

## KPA RTC, ENCLOSURE 2, P&SL EXAMINATION

117 **Sec. 9. Penalty.** Whoever violates any of the rules or  
118 regulations of the authority promulgated under the authority of  
119 this chapter, or refuses or neglects to obey the lawful and  
120 reasonable orders of a harbor master or resists him in to  
121 execution of his duties shall be punished by a fine of not more  
122 than \$50. All fines collected under this section shall be  
123 forwarded to the port authority and by it applied to the salary  
124 of the harbor master.

COMMENT: Moves to ordinance. Enables update of 53 year-old amount.

125 **Sec. 10. Definition.** The word "vessel" as used in this chapter  
126 shall include boats of all sizes propelled by said, machinery or  
127 hand, scows, dredges, shellfish cars and craft of every kind.

COMMENT: Superseded by 38 MRS §542

128 **Sec. 11. Authorization to establish foreign-trade zones and free**  
129 **port areas.**

130 **I.** Said authority is authorized to make application to the  
131 Secretary of Commerce of the United States for the purpose of  
132 establishing, operating and maintaining foreign-trade zones in  
133 the area herein described, under the Act of Congress passed at  
134 the second session, 73rd Congress, providing for the  
135 establishment, operation and maintenance of foreign-trade zones  
136 in ports of entry of the United States, to expedite and encourage  
137 foreign commerce, and for other purposes.

138 **II.** Said authority shall have full power and authority to select  
139 and describe the location of the zone for which application to  
140 establish may be made and to make such rules and regulations  
141 concerning the operation, maintenance and policing of same as may  
142 be necessary to comply with the Act of Congress creating said  
143 foreign-trade zones, or as may be necessary to comply with such  
144 rules and regulations made in accordance with the Acts of  
145 Congress, relating to foreign-trade zones.

146 **III.** Said authority shall have full power and authority to lease  
147 the right and erect, maintain and operate any structures or  
148 buildings or enclosures as may be necessary or proper for the  
149 establishing and operating any such foreign-trade zones that  
150 might be established in the area herein described under and by  
151 virtue of said act of the 2nd session of the 73rd Congress.

## KPA RTC, ENCLOSURE 2, P&SL EXAMINATION

152 **IV.** The authority hereby granted to said port authority confers  
153 on said port authority the right and duty to do all things  
154 necessary and proper to carry into effect the establishing,  
155 maintaining and operating of foreign-trade zones within the area  
156 herein described to comply in full with the provisions of said  
157 Act of Congress and all regulations that might be made  
158 thereunder.

159 **V.** The Town of Kittery Port Authority shall have the power and  
160 the duty to establish in the area herein described an area  
161 wherein personal property in transit shall be exempt from the  
162 provisions of the stock-in-trade tax and other such taxes and  
163 customs as are normally levied in a port of entry. For the  
164 purpose of this section, personal property in transit through the  
165 areas established by this port authority is defined as follows:  
166 Goods, wares and merchandise which is (1) moving in interstate or  
167 international commerce through or over the areas hereinbefore  
168 established, or (2) which was consigned to a warehouse, public or  
169 private, within the Town of Kittery, whether specified when  
170 transportation begins or afterward. Such property shall not be  
171 deprived of exemption because while in the warehouse the property  
172 is assembled, bound, joined, processed, disassembled, divided,  
173 but, broken in bulk, relabeled or repackaged. The exemption  
174 granted shall be liberally construed to effect the purpose of  
175 this act. Provided, however, that the warehouse in which said  
176 goods, wares or merchandise be stored shall not be owned, in  
177 whole, or in part by the consignee or consignor.

COMMENT: This is now exclusively governed by the US Customs  
Service.

178 **Sec. 12. Severability.** If any provision of this chapter shall  
179 be held invalid, the remainder of the chapter shall not be  
180 affected thereby.

COMMENT: Clause is superfluous with Charter and Town Code Title 1  
provisions.



## Report to the Kittery Town Council – June Election – Warrant Article

**RESPONSIBLE INDIVIDUALS:** ORC (Dennett, Beers)

**Date:** March 08, 2010

**Subject:** Town Charter Warrant Article, Kittery Port Authority

### **BACKGROUND:**

Kittery Port Authority established by Maine Legislature Private & Special (P&SL) law in 1961, as amended (encl 1)

Legislation was enacted in response to the then possibility of a large scale offshore gas terminal development

Legislation was enacted prior to Town charter in 1967 in the absence of ordinance/authority addressing the concerns addressed in its provisions

Many of the original and amended provisions were subsequently addressed in state statutes

The Authority has long considered itself as an “independent” agency, yet the council appoints its members and provides its budget

Our insurance carrier removed us from a beneficial less-costly risk pool because of that “independent” consideration (i.e. they consider the harbor master and operations outside council/manager purview).

Thorough review of the complete town charter and the 1961 P&SL reveals that, except for the special provisions for the School Department, the Authority is no different de facto or de jure than the Planning Board or Board of Appeals

### **CURRENT SITUATION:**

The Port Authority has recently sought significant support for infrastructure capital improvements and grants for an enterprise initiative that requires significant regulatory and operational town support.

Separate consideration is being asked of council for establishment of a single public facilities management operation for good and sufficient reason and benefit.

Incorporation of the Port Authority into the town charter, akin to the Planning Board and Board of Appeals, would require little change to its structure or operations, and would significantly increase its opportunities to serve the town’s water-dependent uses and opportunities.

A treatise on the concept is provided (encl 2) with a referendum question recommendation (encl 3)

With voter approval, amendments to the Town Code incorporating particular provisions of the Authority’s responsibilities, processes, and authority would be required (encl 4).

**RECOMMENDATION:** Approve warrant article, as structured by Town Manager and Attorney for the June 2010 ballot for voter consideration for the change with unanimous council endorsement consent.

**3 Enclosures**

## Report to the Kittery Town Council – June Election – Warrant Article

### Enclosure 1, Port Authority P&SL, 1961, as amended

#### KITTERY PORT AUTHORITY

PRIVATE AND SPECIAL 1961

#### Chapter 163

#### AN ACT Creating the Town of Kittery Port Authority

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**Sec. 1. Authority established.** The Town of Kittery Port Authority is established, consisting of and governed by a board of 7 members, 6 of whom are appointed by the town council of the Town of Kittery. At least 3 of the appointive members must be permanent residents of the Town of Kittery, and the members serve for a term of 5 years, providing that of the first appointment 2 are appointed for a term of one year, one for a term of 2 years, one for a term of 3 years, one for a term of 4 years and one for a term of 5 years. The members serve until their successors are appointed and qualified. Any vacancy occurring in the membership of the appointive members is filled by the town council for the unexpired term. In addition to the 6 appointive members, a member of the Town Planning Board designated by the chair of the Town Planning Board is a member of the port authority, serving for a term of 5 years or until membership on the planning board terminates, whichever occurs first. The board shall elect one of its members as chair, one as a vice-chair and one as secretary. The members of the board are not entitled to compensation for their services; but their reasonable expenses incurred in the performance of their duties must be paid by the Town of Kittery. The board has the right to adopt and alter a common seal and to establish bylaws and regulations for the management of its affairs within the meaning of this authority, the laws of the State of Maine and the ordinances of the Town of Kittery.

**Sec. 2. Purposes.** The Town of Kittery Port Authority, in cooperation with the other appropriate planning and development boards that may exist in the Town of Kittery, shall:

**I.** Plan for the maintenance and development of the port, harbor and navigable tidal waters within the jurisdiction of the Town of Kittery, in order to foster and stimulate commercial and recreational use of these areas.

**II.** Aid in the development of salt water fisheries and associates industries; ship and boat building, repair and storage and associated industries; pleasure boating, swimming and other associated recreational uses of these areas and facilities.

**III.** Be authorized and empowered to appoint and compensate a harbor master, who will enforce the directives of the authority, such as the placement of moorings, the assignments of anchorage areas and the movement of traffic, and the use of municipally-owned wharves, docks, piers and landings.

**Sec. 3. Powers and duties.** In order to enable it to carry out the purposes hereof, the authority shall:

**I.** Have the authority to make all necessary arrangements with other port authorities of the State of Maine, other states and federal departments and agencies for the interchange of business, and for such other purposes as will facilitate and increase the purposes of this authority.



## Report to the Kittery Town Council – June Election – Warrant Article

100       **II.** Establish offices for the transaction of its business at such places as, in the opinion of the authority, shall be  
101       advisable and necessary in carrying out the purposes hereof.

102  
103       **III.** Be authorized and empowered to appoint and compensate a harbor master, who will enforce the directives  
104       of the authority, such as the placement of moorings, the assignments of anchorage areas and the movement of  
105       traffic.

106  
107       **IV.** Be authorized to raise funds for defraying the costs of administration and operation of the authority and  
108       projects under its supervision, through fund appropriation articles in the town warrant, submitted for  
109       consideration at any town meeting, and through any and all other sources of revenue authorized by this act.

110  
111       **V.** Be custodian of municipally-owned wharves, docks, piers and landings.

112  
113       **Sec. 4. Rules and regulations.** Said authority may make such ordinances, rules and regulations touching  
114       municipally-owned wharves, docks, piers and landings, port captains, pilots and pilotage, harbors and harbor masters,  
115       for the areas herein defined as it may deem proper and from time to time may modify, rescind or alter the same. Said  
116       rules and regulations shall have the force and effect of law. Said authority shall fix the fees of pilotage and a table of  
117       such fees shall be attached to the commission of each pilot.

118       **Sec. 5. Pilots.** The authority may prescribe the qualifications of pilots, and from time to time appoint and  
119       commission, under its hand and seal, as many pilots as it may judge necessary, and remove the same at pleasure, and it  
120       shall take from them such security, by bond or otherwise as it may deem proper.

121  
122       **Sec. 6. Authority of pilot.** Any pilot appointed by the authority who has given security for the faithful  
123       discharge of his duties may take charge of any vessel, except pleasure, coasting and fishing vessels of the United States  
124       registry of 150 registered or enrolled tons and under, and except as provided in section 7, and shall pilot such vessel into  
125       or out of the river and harbor of the Piscataqua, to ports or locations within the jurisdictional area of this authority, first  
126       showing to the master thereof his appointment, if requested.

127  
128       **Sec. 7 Fee an offer.** Any master or owner may pilot his own vessel into the area herein defined, but if a pilot  
129       shall speak and offer service to a vessel, excepting registered or enrolled vessels of the United States, bound into said  
130       area south of a line drawn east and west from Whale's-back lighthouse, or shall offer service to a vessel bound out of  
131       said area excepting registered or enrolled vessels of the United States, before they leave the wharf, he shall be entitled to  
132       ½ of the fee specified in his warrant in case the master declines to employ him, and, on refusal of payment, may sue for  
133       and recover same.

134  
135       **Sec. 8. Harbor master.** The harbor master appointed by the authority shall have the authority, under the  
136       supervision of the authority, to oversee the jurisdictional area of this authority, to preserve and regulate navigation  
137       within said waters, to assign moorings, require the same to be kept in safe condition, to require the removal of vessels if  
138       necessity or an emergency arises, to inquire into and prosecute all offenses occurring within his jurisdiction and to  
139       perform such duties and enforce such regulations as the authority shall prescribe. The harbor master shall have  
140       authority to make arrests for offenses under the provisions of this chapter, as other peace officers are authorized to do.

141  
142       **Sec. 9. Penalty.** Whoever violates any of the rules or regulations of the authority promulgated under the  
143       authority of this chapter, or refuses or neglects to obey the lawful and reasonable orders of a harbor master or resists  
144       him in to execution of his duties shall be punished by a fine of not more than \$50. All fines collected under this section  
145       shall be forwarded to the port authority and by it applied to the salary of the harbor master.

146  
147       **Sec. 10. Definition.** The word "vessel" as used in this chapter shall include boats of all sizes propelled by  
148       said, machinery or hand, scows, dredges, shellfish cars and craft of every kind.

## Report to the Kittery Town Council – June Election – Warrant Article

### Sec. 11. Authorization to establish foreign-trade zones and free port areas.

I. Said authority is authorized to make application to the Secretary of Commerce of the United States for the purpose of establishing, operating and maintaining foreign-trade zones in the area herein described, under the Act of Congress passed at the second session, 73rd Congress, providing for the establishment, operation and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes.

II. Said authority shall have full power and authority to select and describe the location of the zone for which application to establish may be made and to make such rules and regulations concerning the operation, maintenance and policing of same as may be necessary to comply with the Act of Congress creating said foreign-trade zones, or as may be necessary to comply with such rules and regulations made in accordance with the Acts of Congress, relating to foreign-trade zones.

III. Said authority shall have full power and authority to lease the right and erect, maintain and operate any structures or buildings or enclosures as may be necessary or proper for the establishing and operating any such foreign-trade zones that might be established in the area herein described under and by virtue of said act of the 2nd session of the 73rd Congress.

IV. The authority hereby granted to said port authority confers on said port authority the right and duty to do all things necessary and proper to carry into effect the establishing, maintaining and operating of foreign-trade zones within the area herein described to comply in full with the provisions of said Act of Congress and all regulations that might be made thereunder.

V. The Town of Kittery Port Authority shall have the power and the duty to establish in the area herein described an area wherein personal property in transit shall be exempt from the provisions of the stock-in-trade tax and other such taxes and customs as are normally levied in a port of entry. For the purpose of this section, personal property in transit through the areas established by this port authority is defined as follows: Goods, wares and merchandise which is (1) moving in interstate or international commerce through or over the areas hereinbefore established, or (2) which was consigned to a warehouse, public or private, within the Town of Kittery, whether specified when transportation begins or afterward. Such property shall not be deprived of exemption because while in the warehouse the property is assembled, bound, joined, processed, disassembled, divided, but, broken in bulk, relabeled or repackaged. The exemption granted shall be liberally construed to effect the purpose of this act. Provided, however, that the warehouse in which said goods, wares or merchandise be stored shall not be owned, in whole, or in part by the consignee or consignor.

Sec. 12. **Severability.** If any provision of this chapter shall be held invalid, the remainder of the chapter shall not be affected thereby.

Amended:

Private and Special 1963, Chapter 97, §2

Private and Special 1993, Chapter 26, §1

## Report to the Kittery Town Council – June Election – Warrant Article

### Enclosure 2, Port Authority Treatise

The board has the right to adopt and alter a common seal and to establish bylaws and regulations for the management of its affairs within the meaning of this authority, the laws of the State of Maine and the ordinances of the Town of Kittery.

**Sec. 2. Purposes.** The Town of Kittery Port Authority, in cooperation with the other appropriate planning and development boards that may exist in the Town of Kittery, shall:

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IV. Be authorized to raise funds for defraying the costs of administration and operation of the authority and projects under its supervision, through fund appropriation articles in the town warrant, submitted for consideration at any town meeting, and through any and all other sources of revenue authorized by this act.

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## Report to the Kittery Town Council – June Election – Warrant Article

harbors and harbor masters, for the areas herein defined as it may deem proper and from time to time may modify, rescind or alter the same. Said rules and regulations shall have the force and effect of law. Said authority shall fix the fees of pilotage and a table of such fees shall be attached to the commission of each pilot.

**Sec. 5. Pilots.** The authority may prescribe the qualifications of pilots, and from time to time appoint and commission, under its hand and seal, as many pilots as it may judge necessary, and remove the same at pleasure, and it shall take from them such security, by bond or otherwise as it may deem proper.

**Sec. 6. Authority of pilot.** Any pilot appointed by the authority who has given security for the faithful discharge of his duties may take charge of any vessel, except pleasure, coasting and fishing vessels of the United States registry of 150 registered or enrolled tons and under, and except as provided in section 7, and shall pilot such vessel into or out of the river and harbor of the Piscataqua, to ports or locations within the jurisdictional area of this authority, first showing to the master thereof his appointment, if requested.

**Sec. 7 Fee an offer.** Any master or owner may pilot his own vessel into the area herein defined, but if a pilot shall speak and offer service to a vessel, excepting registered or enrolled vessels of the United States, bound into said area south of a line drawn east and west from Whale's-back lighthouse, or shall offer service to a vessel bound out of said area excepting registered or enrolled vessels of the United States, before they leave the wharf, he shall be entitled to ½ of the fee specified in his warrant in case the master declines to employ him, and, on refusal of payment, may sue for and recover same.

**Sec. 8. Harbor master.** The harbor master appointed by the authority shall have the authority, under the supervision of the authority, to oversee the jurisdictional area of this authority, to preserve and regulate navigation within said waters, to assign moorings, require the same to be kept in safe condition, to require the removal of vessels if necessity or an emergency arises, to inquire into and prosecute all offenses occurring within his jurisdiction and to perform such duties and enforce such regulations as the authority shall prescribe. The harbor master shall have authority to make arrests for offenses under the provisions of this chapter, as other peace officers are authorized to do.

**Sec. 9. Penalty.** Whoever violates any of the rules or regulations of the authority promulgated under the authority of this chapter, or refuses or neglects to obey the lawful and reasonable orders of a harbor master or resists him in to execution of his duties shall be punished by a fine of not more than \$50. All fines collected under this section shall be forwarded to the port authority and by it applied to the salary of the harbor master.

**Sec. 10. Definition.** The word "vessel" as used in this chapter shall include boats of all sizes propelled by said, machinery or hand, scows, dredges, shellfish cars and craft of every kind.

## Report to the Kittery Town Council – June Election – Warrant Article

### **Sec. 11. Authorization to establish foreign-trade zones and free port areas.**

I. Said authority is authorized to make application to the Secretary of Commerce of the United States for the purpose of establishing, operating and maintaining foreign-trade zones in the area herein described, under the Act of Congress passed at the second session, 73rd Congress, providing for the establishment, operation and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes.

II. Said authority shall have full power and authority to select and describe the location of the zone for which application to establish may be made and to make such rules and regulations concerning the operation, maintenance and policing of same as may be necessary to comply with the Act of Congress creating said foreign-trade zones, or as may be necessary to comply with such rules and regulations made in accordance with the Acts of Congress, relating to foreign-trade zones.

III. Said authority shall have full power and authority to lease the right and erect, maintain and operate any structures or buildings or enclosures as may be necessary or proper for the establishing and operating any such foreign-trade zones that might be established in the area herein described under and by virtue of said act of the 2nd session of the 73rd Congress.

IV. The authority hereby granted to said port authority confers on said port authority the right and duty to do all things necessary and proper to carry into effect the establishing, maintaining and operating of foreign-trade zones within the area herein described to comply in full with the provisions of said Act of Congress and all regulations that might be made thereunder.

V. The Town of Kittery Port Authority shall have the power and the duty to establish in the area herein described an area wherein personal property in transit shall be exempt from the provisions of the stock-in-trade tax and other such taxes and customs as are normally levied in a port of entry. For the purpose of this section, personal property in transit through the areas established by this port authority is defined as follows: Goods, wares and merchandise which is (1) moving in interstate or international commerce through or over the areas hereinbefore established, or (2) which was consigned to a warehouse, public or private, within the Town of Kittery, whether specified when transportation begins or afterward. Such property shall not be deprived of exemption because while in the warehouse the property is assembled, bound, joined, processed, disassembled, divided, but, broken in bulk, relabeled or repackaged. The exemption granted shall be liberally construed to effect the purpose of this act. Provided, however, that the warehouse in which said goods, wares or merchandise be stored shall not be owned, in whole, or in part by the consignee or consignor.

## Report to the Kittery Town Council – June Election – Warrant Article

### Enclosure 3, June Election – Port Authority - Warrant Article Recommendation

#### *Kittery Town Charter*

#### **Article IX. Port Authority and harbor of Kittery**

~~There shall be a port authority as provided by special Maine statutes as amended.~~

~~**Editor's note** The Town of Kittery Port Authority was established by P. & S.L. 1961, Ch. 163, as amended; article IX of the charter is maintained as it was enacted. As you will note, there are no sections designated within the article.~~

#### **Sec. 9.01. Port Authority.**

(1) Composition. The port authority, consisting of 6 members appointed as hereinbefore provided in this charter, has such powers and performs such duties as provided by law. In addition to the appointive members, a member of the Town Planning Board designated by the chair of the Town Planning Board is a member of the port authority, serving until membership on the planning board terminates.

(2) Terms. Members shall serve terms of 5 years.

(3) Term limits. No member shall serve more than 2 consecutive terms of 5 years. Any member who has served 2 consecutive terms of 5 years is ineligible to serve on the board for a period of 1 year. Computation of term limits commences with the first term of 3 years following the effective date of this provision. Computation of term limits does not include service prior to the effective date of this provision nor terms of fewer than 5 years after the effective date.



## Report to the Kittery Town Council – June Election – Warrant Article

### Enclosure 4, Town Code Revision Recommendations

#### **16.04.060 Port authority.**

##### A. Appointment and composition.

1. The Port Authority is established by the Town Charter, Article IX, Section 9.01, and 30-A M.R.S. §2691.

2. The port authority consists of seven (7) members, who are Kittery residents serving staggered terms of office of five years.

3. Members of the port authority are appointed by the town council.

4. A municipal officer, or spouse thereof, may not serve as a member of the port authority.

5. Members serve until their successors are appointed and qualified.

6. The number of consecutive terms by any port authority member is limited by Section 9.01(3) of the Town Charter.

7. A member of the port authority may be dismissed for cause by the town council before the expiration of such member's term after notice and hearing.

8. Vacancies are filled by town council appointment for the unexpired term.

##### B. Powers and Duties.

##### Powers and duties of the port authority of appeals are:

1. To elect annually a chairperson and vice chairperson from its membership and a secretary. It is the duty of the secretary to keep and maintain a permanent record of all meetings of the port authority, and show the vote of each member upon each question.

2. A quorum consists of four or more members. All decisions must be made by a minimum of four like votes, except on procedural matters.

3. Adopt bylaws to govern routine port authority proceedings and set agendas and hold meetings to perform duties.

4. Any question of whether a particular issue involves a conflict of interest sufficient to disqualify a member from voting thereon is decided by a majority vote of the members present, except the member who is being challenged, who may not vote on the issue.

6. All records of the port authority are public records, except as excluded under 1 M.R.S. §402 (3)(A)-(O), the Maine Freedom of Access (Right to Know) statute.

7. The port authority is to:

a. Perform duties as provided by law.

——— D. ——— b. Water Area Development Powers and Duties.

1. The KPA shall provide advice to the planning board on development applications dealing with piers, docks, wharfs, marinas and other uses projecting into water bodies.

2. Where KPA review is required, such review must be completed prior to planning board review.

## Report to the Kittery Town Council – June Election – Warrant Article

389           3.       Upon amendment, change, or revision of the existing comprehensive plan, or  
390 adoption of a new comprehensive plan, this code must be reviewed for amendment to further  
391 define the KPA's role under this title.

392           4.       Where town council action is required under the Wharves and Weirs statute, the  
393 council may appoint the KPA as its designee for on-site inspection and to issue a written report on  
394 the same to the town council.

395           5.       KPA approval authority under this code applies to structures extending into a water  
396 body beyond the mean high water line or the upland edge of a coastal wetland and extends from  
397 the water body to the mean high water line or upland edge of a coastal wetland. The interface  
398 | between review and approval responsibilities of the KPA and the Kittery planning board is defined  
399 in Note 6 to Table 16.32.490. (~~Ord. 14-06 (part): land use and dev. code § 1.6, 1994~~)  
400



## **PARKING COMMENTS RECEIVED**

**RESPONSE TO SOME MERCHANTS EXPRESSING CONCERNS OF NO PARKING AVAILABLE TO CUSTOMERS**

**SOME OPTIONS – MEREDITH IE SHUTTLE EMPLOYEES TO OTHER LOCATIONS**

**HAVE MAPS AVAILABLE SHOWING PARKING LOCATIONS ON WEBSITE AND AVAILABLE TO BUSINESSES**

**MAY WANT TO DEVELOP A BUSINESS ASSOCIATION TO ASSIST**

**PARKING METER OPTIONS/ PARKING GARAGES**

**DEPT HEADS HERE TO LISTEN – CHRIS DIMATEO SPEAK OF UPCOMING GRANT TO ASSIST**

- **INTERN WORKED ON COUNTING SPACES AND DEVELOPED MAP – YELLOW MUNICIPAL; GREEN PRIVATE OR COMMERCIAL, BLUE PARKING SPACES**
- **APPROXIMATELY 407 SPACES – MAY BE ABLE TO ADD SOME ON WALKER**
- **DRIKA OVERTON, EX DIRECTOR DANCE HALL ; 7 WALKER STREET – FREE PARKING; SUMMER A PROBLEM AND ON WEEKEND NIGHTS; ON WEEKDAYS ON WALKER STGREET SPACES FILL UP WITH SHIPYARD FOLKS – TICKETING DOESN'T SEEM TO HELP; THINKS PARKING METERS WOULD ONLY DETER BUSINESS FROM THE FORESIDE; PARKING GARAGE MIGHT BE EXPENSIVE AND UNNECESSARY; HAVE TALKED ABOUT PUBLIC TRANSPORTATION OPTIONS SUCH AS SHUTTLES TO AND FROM PORTSMOUTH AND RESUMING LONG LOST FERRY SERVICE FROM THE TOWN DOCK**
- **4-101 – AMY DUTTON HOME – SHE HAD AMPLE PARKING IN HER LOT AND WOULD BE HAPPY TO LEASE OUT SPACE.**
- **OTHER POSSIBLE AREAS, CHURCH**
- **MORE PARKING SPACE ALONG WALKER ST**

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- **OTHER POSSIBLE AREAS, CHURCH**
- **MORE PARKING SPACE ALONG WALKER ST**

## REPORT TO THE KITTERY TOWN COUNCIL – ANIMAL CONTROL

1 **RESPONSIBLE INDIVIDUALS:** Marchi (CEO-PH) / Hackett (ACO) **Date:** June 30, 2016

2 **SPONSOR:** Beers

3 **SUBJECT:** Animal Control Issues

### 4 **BACKGROUND:**

- 5 • Numerous Complaints – Trespassing chickens; Dog feces
  - 6 ○ Other animal nuisance – 17 MRS §2802
  - 7 ○ Public health Concern
  - 8 ○ Environmental consideration
- 9 • Issues addressed at Council – Planning Board Workshop, May, 2016
  - 10 ○ Town Code Title 6 addresses dogs
  - 11 ○ Town Code Title 12, Chapters 4 & 5 address dogs at Fort Foster & Seapoint/Crescent
  - 12 beaches
- 13 • Reviewed 25 Chicken ordinances
  - 14 ○ York, Eliot example ordinances

### 15 **CURRENT SITUATION:**

- 16 • Better to rescind all of present Title 6 in order to achieve logical grouping, material
- 17 organization, and commonality of functional features for all animal nuisance/public health
- 18 concerns (*encl 1*)
- 19 • **Note Key features added**
- 20 • Town Code Appendix A and Title 12 should also be revised as proposed
- 21 • ORC Reviewed draft
  - 22 ○ Purpose, findings and intent are shown in enactment front matter (*encl 2*)
  - 23 ○ Amendment proposal is in due form for passage

24 **RECOMMENDATION:** Deliberation and consideration for ordainment, as presented

### **Enclosures**

- 25 1. Title 6 & 12 revision proposal
  - 26 ○ Town Code Appendix A revision proposal
- 27 2. Title 6 & 12 Enactment Front Matter

**RTC ENCLOSURE 1 – Title 6 & 12 Proposed Revision**

**~~Title 6 ANIMALS~~**

**~~Chapter 6.1 DOGS~~**

**~~6.1.0 Exceptions. Seapoint / Crescent Beaches; Fort Foster.~~**

~~If in conflict with any section of this chapter, the provisions of Chapter 12.4 (Seapoint/Crescent Beaches) or Chapter 12.5 (Fort Foster) will apply.~~

**~~6.1.1 Definitions.~~**

~~For the purpose of this chapter, the following terms have the meaning ascribed to them in this section.~~

~~Animal control officer includes municipal police officer.~~

~~At large means off the premises of the owner unless:~~

~~A. Controlled by a leash, cord or chain, of not more than eight feet in length;~~

~~B. Within a vehicle, or under restraint in an open vehicle being driven or parked on a public way;~~

~~or,~~

~~C. Under the control of a person whose personal presence and attention would control the conduct of the dog.~~

~~Owner means any person keeping or harboring a dog.~~

**~~6.1.2 Applicability to Visiting Nonresidents.~~**

~~The licensing provisions of this chapter do not apply to any dog belonging to a nonresident visiting within the town without the intention of becoming a resident, but the owner of such dog must comply with the remaining provisions of this chapter.~~

**~~6.1.3 Right of Entry to Inspect License, Dog.~~**

~~For the purpose of discharging the duties imposed by this chapter and to enforce the provisions of this chapter, any animal control officer is empowered with the consent of the owner or occupant thereof, to enter upon any premises on which a dog is kept or harbored and demand the exhibition by the owner of the dog and the license of such dog.~~

**~~6.1.4 Hindering Officers, Improperly Releasing Dogs Prohibited.~~**

~~No person may interfere with, hinder or molest any animal control officer in the performance of the officer's duty, or seek to release any dog in the custody of an animal control authority, except as provided in this chapter.~~

**~~6.1.5 Record to be Kept by Animal Control Officer—Contents.~~**

~~It is the duty of an animal control officer to keep, or cause to be kept, an accurate and detailed record of the licensing, impoundment and disposition of all dogs coming into the officer's custody.~~

**~~6.1.6 License Required.~~**

~~No dog may be kept within the limits of the town unless such dog has been licensed by its owner in accordance with the statutes of the state.~~

**~~6.1.7 Impoundment Authorized.~~**

~~Unlicensed dogs, wherever found, or dogs found running at large will be taken by an animal control officer and impounded in an animal shelter. Such animal may be confined for a period of not fewer than ten (10) days unless earlier reclaimed under the provisions of Section 6.1.9.~~



**6.1.8 — Impoundment Fees.**

~~Any dog impounded in accordance with this chapter may be reclaimed upon payment of the total fees for board. This fee is paid to the keeper of the animal.~~

**6.1.9 — Disposition of Impounded Dog, Notification of Impoundment.**

~~A. — A dog owner may reclaim an impounded dog upon compliance with Section 6.1.6, and upon payment of the boarding fees set forth in Section 6.1.8. Any dog impounded under the provisions of this chapter and not claimed by the owner within the ten (10) day period, is considered abandoned by the owner and the property of the animal shelter. The dog may be given, after consultation with the Humane Society and/or the Animal Refuge League, to the Humane Society or the Animal Refuge League or any person deemed to be responsible and a suitable owner who will agree to comply with the provisions of this chapter or humanely destroy the animal.~~

~~B. — Where the ownership of an impounded dog is known, or can be reasonably ascertained by an animal control officer, such officer shall, if possible, notify the owner within three days of such impoundment, but failure to give such notice does not impose any liability upon the town for the destruction or transfer to another of any dog so impounded and not reclaimed within the required period.~~

**6.1.10 Disposition of Dog Biting Person.**

~~Whenever any dog bites a person the owner of such dog must immediately notify an animal control officer who may order the dog held on the owner's premises or have it impounded for a period of two weeks. The dog must be examined immediately after it has bitten any person and again at the end of the two-week period. If at the end of the two weeks a veterinarian is convinced that the dog is then free from rabies the dog is released from quarantine or from the pound as the case may be. If the dog dies within the period, its head must be sent to the state department of health for rabies examination.~~

**6.1.11 Disturbing the Peace.**

~~No person owning any dog may suffer or permit such dog to disturb the peace and quiet of the neighborhood by continuous barking, by making other loud or unusual noises or by running through or across cultivated gardens or fields.~~

**6.1.12 Running at Large Prohibited.**

~~No dog is permitted to run at large within the limits of the town, however, this section does not prohibit the owner of a dog from using such dog for hunting provided the dog is under the control of its owner.~~

**6.1.13 Animal Waste.**

~~It is a violation of this ordinance for any owner of a dog to fail to remove and properly dispose of feces left by his or her dog(s) on any improved portion of public ways or sidewalks.~~

**6.1.14 Penalties.**

~~A person who violates any provision of this chapter is subject to penalties set forth in Title 1.~~



**Chapter 12.4 SEAPOINT AND CRESCENT BEACHES**

**~~12.4.8 Animals.~~**

~~No domestic animal is allowed within Seapoint or Crescent Beaches except that dogs, while under the control of their owner or keeper, are allowed on Crescent and Seapoint Beaches at times other than between the hours of 10:00 a.m. to 5:00 p.m. from June 15th through September 10th of each year. This limitation does not apply to guide or seeing eye dogs when used as such. At no time may the owner or keeper of any dog allow that dog to run at large on Crescent or Seapoint Beaches or enter upon any publicly owned saltmarsh immediately adjacent to Seapoint or Crescent Beach. From May 15th and September 30th inclusive, only dogs licensed to town residents are allowed on Seapoint and Crescent Beaches.~~

~~A pooper scooper rule is in effect for dogs. Owners and keepers must properly dispose of animal waste either by placing it in supplied receptacle(s) or if one is not supplied by taking it with them when leaving the beaches.~~

**Chapter 12.5 FORT FOSTER**

**~~12.5.1 Animals.~~**

~~With the exception of dogs, no domestic animals are allowed in Fort Foster Park, and dogs are subject to the following conditions:~~

~~A. Dogs must be leashed at all times during park hours (10:00 a.m. to 8:00 p.m.) on weekends in May and September, and every day from Memorial Day to Labor Day, inclusive. A maximum leash of eight feet is allowed.~~

~~B. While under control of the owner or keeper, dogs are also allowed in the park during the following days and times:~~

- ~~1. During weekdays, prior to Memorial Day in May;~~
- ~~2. Before park opening (sunrise to 10:00 a.m.) between Memorial Day and Labor Day;~~
- ~~3. During weekdays, after Labor Day in September; and~~
- ~~4. Between sunrise and sunset from October 1st to April 30th, inclusive.~~

~~A "pooper scooper" rule is in effect for dogs. Owners or keepers must take their dogs' solid waste with them when leaving the park.~~

**Appendix A – Fee Schedules Approved October 26, 2015 Effective October 27, 2015**

**KITTERY TOWN CODE APPENDIX A – FEE SCHEDULES**

**SCHEDULE 6. ANIMALS**

**Chapter 2. PERMIT & LICENSE**

**6.2.1 Domesticated poultry permit.**

Initial permit application	\$25.00
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Renewal permit application	\$10.00
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**Chapter 4. DOGS**

**6.4.6 Impoundment return/release.**

Return to owner by ACO	\$25.00
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Impoundment Release – 1 <sup>st</sup> offense	\$50.00
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Impoundment Release – Subsequent offenses	\$100.00
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**NOTE:** In accordance with Title 6, Section 6.4.6B: Any dog impounded may be reclaimed upon payment of the fee and then the total fees for board to be paid to the keeper of the animal.

Title 6 ANIMALS

CHAPTER 6.1 GENERAL

6.1.1 Purpose.

6.1.2 Definitions.

6.1.3 Animal Control Officer (ACO).

6.1.4 Code Enforcement – Public Health Officer.

6.1.5 Nuisances Declared.

6.1.6 Penalty.

6.1.7 Appeal.

6.1.8 Waiver/ payment of fines.

6.1.9 Record to be kept by Animal Control Officer.

CHAPTER 2. PERMIT & LICENSE

6.2.1 Domesticated poultry permit.

6.2.1.1 Application and approval of permit.

6.2.1.2 Denial, suspension or revocation of permit.

6.2.2 Dog license and registration required.

6.2.2.1 Tags and stickers.

6.2.2.2 Rabies tags.

CHAPTER 3. NUISANCES PROHIBITED

6.3.1 Animal noise.

6.3.2 Control of animal waste.

6.3.4 Animal trespass.

6.3.5 Proximity to bodies of water.

6.3.6 Prohibited acts.

6.3.7 Public beaches – restriction.

CHAPTER 4. DOGS

6.4.1 Running at-large prohibited.

6.4.2 Dogs not under voice control.

6.4.3 Right of entry to inspect license, dog.

6.4.4 Hindering officers, improperly releasing dogs prohibited.

6.4.5 Impoundment authorized.

6.4.6 Impoundment return/release.

6.4.7 Impoundment fees.

6.4.8 Disposition of impounded dog, notification of impoundment.

6.4.9 Dangerous dogs.

6.4.10 Disposition of dog biting a person.

CHAPTER 5. DOMESTIC POULTRY

6.5.1 Number and type of poultry allowed.

6.5.2 Non-commercial use only.

6.5.3 Enclosures.

6.5.5 Fencing and screening.

6.5.6 Feed and water.

6.5.7 Lighting.

6.5.8 Waste storage and removal.

6.5.9 Odor and noise impacts.

6.5.10 Predators, rodents, insects, and parasites.

6.5.10 Removal of poultry.



**CHAPTER 6.1 GENERAL**

**6.1.1 Purpose.**

The purpose of this ordinance is to require all animals in the Town be kept under the control of their owner or responsible party at all times so that they may not injure persons or other animals, damage property, or create a threat to public health or safety. The provisions of this ordinance that apply to the owner of an animal apply equally to any person keeping, or having control, custody, or possession of that animal.

**6.1.2 Definitions.**

For the purpose of this Title, the following terms have the meaning ascribed to them in this section.

**Abandoned Animal** means an animal that has been deserted by its owner or keeper.

**Abused** means to treat an animal wrongfully or harmfully which results in injurious or improper treatment.

**Animal** means every living, sentient creature not a human being.

**Animal Control** means control of dogs, cats and domesticated or undomesticated animals.

**Animal Shelter** means a facility that includes a physical structure, or part of a physical structure, that provides temporary or permanent shelter to stray, abandoned, abused, or owner-surrendered animals.

**At-large** means off the premises of the owner and not under the control of any person whose presence and attention would reasonably control the conduct of the animal.

**Beach** means any beach area within the town used by the general public.

**Control** means the power or ability to direct the proper and safe activity of an animal.

**Domestic/Domesticated Animal** means animals that normally and customarily share human habitat and are normally dependent on humans for shelter and/ or food, such as, but not limited to, dogs, cats, cattle, horses, swine, fowl, sheep, and goats.

**Fowl** means any domesticated gallinaceous bird including, but not limited to, those of the chicken, duck, goose, turkey, and guinea fowl species.

**Leash** means a handheld device (lead, chain, or cord) which can be used to restrain an animal if the animal fails to respond to voice commands.

**Owner** means any person owning, keeping, or harboring an animal, and includes any responsible party.

**Poultry** (See Fowl)

**Responsible Party** means any person keeping, or having control, custody, or possession of an animal on behalf of its owner.

**Stray** means off the owner's premises and not under the control of a person.

**Voice Control** means that the animal returns immediately to, and remains by the side of, the owner in response to verbal commands.



**6.1.3 Animal Control Officer (ACO).**

A qualified person employed by the Town as a member of the police department who performs the duties of Animal Control Officer to enforce animal control laws in accordance with Maine Revised Statutes and this ordinance, and includes municipal police officers. The ACO will also handle undomesticated (wild) animal complaints and either handle locally or refer to the appropriate outside agency for assistance.

**6.1.4 Code Enforcement – Public Health Officer.**

A qualified person employed by the Town who performs the duties of the Code Enforcement Officer or other person duly authorized by the Town to enforce the provisions of Town Code, as well as the duties of the Public Health Officer.

**6.1.5 Nuisances Declared.**

Any animal violation of this Code is deemed to be a nuisance in accordance with Maine Revised Statutes ???

**6.1.6 Penalty.**

A person who violates any provision of this Title is subject to penalties set forth in Town Code Title 1, Chapter 1.3, Enforcement, Penalty, Nuisance and Fees.

**6.1.7 Appeal.**

A person appealing the issuance, denial, suspension or revocation of a permit by the Code Enforcement Officer may appeal to the Board of Appeals within thirty (30) days of the decision being appealed.

**6.1.8 Waiver/ payment of fines.**

Any person charged with a violation of this Title, is allowed to waive such violation and tender to the Town the fine amount if paid within 20 days of issuance of the summons. If the waiver fine is paid, no appearance before a District Court Judge or other judicial officer is required. If the offender pays the waiver fine, the matter will be closed in the Police Records system and listed as a subsequent offense for future violations.

Offender choosing not to pay the waiver fine shall appear in court on the specified date to answer for the violation. If the offender is found to have committed the offense by the court, fines, applicable court fees, attorney's fees, and prosecution costs may apply.

**6.1.9 Record to be kept by Animal Control Officer.**

It is the duty of an ACO to keep, or cause to be kept, an accurate and detailed record of the licensing, impoundment and disposition of all animals coming into the officer's custody.

**CHAPTER 2. PERMIT & LICENSE**

**6.2.1 Domesticated poultry permit.**

A permit to keep domesticated poultry is required; is personal to the permittee; and, may not be assigned. In the event the permittee is absent from the property for longer than sixty (60) days, the permit automatically terminates and become void.

**6.2.1.1 Application and approval of permit.**

The Code Enforcement Officer shall issue a permit if the applicant has demonstrated compliance with the criteria and standards in this Title.

**6.2.1.2 Denial, suspension or revocation of permit.**

A. The Code Enforcement Officer shall deny a permit if the applicant has not demonstrated compliance with all provisions of this Title.



B. A permit to keep domesticated fowl may be suspended or revoked by Code Enforcement Officer where there is a risk to public health or safety or violation of or failure to comply with any of the provisions of this or any other applicable ordinance or law. Any denial, revocation or suspension of a permit must be in writing and include notification of the right to and procedure for appeal.

**6.2.1.3 Fees.**

The fee for an annual permit to keep domesticated poultry is established in Town Code Appendix A, Fee Schedules.

**6.2.2 Dog license and registration required.**

No dog may be kept within the limits of the Town unless such dog is licensed in accordance with the Statutes of the State of Maine, 7 MRS §3923-A and §3923-C and regulations of the Town. This requirement is the responsibility of the dog owner.

**6.2.2.1 Tags and stickers.**

A. The Town Clerk shall provide, with each new dog license issued, a tag indicating the year the license is issued and such other information as may be required by 7 MRS §3922-B. The tag remains with the dog for as long as the dog is kept in the Town.

B. The owner shall ensure that the tag is securely attached to a collar of leather, metal or material of comparable strength and that the collar is worn at all times by the dog for which the license was issued except when hunting, in training, or in an exhibition. When the dog is hunting, in training, or in an exhibition, its owner shall produce proof of license within twenty-four hours of a request by the ACO.

C. If a tag is lost, the owner shall obtain a new license tag. The Town Clerk shall issue a replacement tag upon presentation of the original license and payment of one dollar.

**6.2.2.2 Rabies tags.**

Rabies tags obtained from a veterinarian for immunization against rabies must be securely attached to a collar of leather, metal or material of comparable strength that must be worn by the dog for which the tag was issued except when the dog is hunting, in training, in an exhibition, or on the premises of the owner. When the dog is hunting, in training or in an exhibition, its owner shall produce proof of license and proof of rabies immunization within twenty-four hours of a request of the ACO.

**CHAPTER 3. NUISANCES PROHIBITED**

**6.3.1 Animal noise.**

A. Owning, possessing, or harboring any animal that frequently or for continued duration, makes loud and unreasonable sounds such that it creates a disturbance on other properties is prohibited.

B. A dog that barks, bays, cries, howls, or makes any other noise continuously and/ or incessantly for a period of 10 (ten) minutes or barks intermittently for 1/2 (one-half) hour or more to the disturbance of any person at any time of day or night, regardless of whether the dog is physically situated in or upon private property is in violation.

C. This does not include a dog if, at the time the dog is barking or making any other noise, a person is trespassing or threatening to trespass upon private property in or upon which the dog is situated, or for any other legitimate cause which teased or provoked the dog.



**6.3.2 Control of animal waste.**

A. Owners must remove and dispose of any feces left by their animals on any sidewalk, street, beach, public property, or private property (other than the property of the owner of the animal or of persons who consented to the presence of the animal on their property) and deposit such feces into an appropriate disposal receptacle.

B. Owners whose animal is present on any property from which the animal's feces is required to be removed pursuant to this must have in their possession a plastic bag or similar container for collecting and removing the feces.

**6.3.4 Animal trespass.**

A. Owners may not allow their animals to enter onto the property of another person after the owner has been warned by the ACO, or a law enforcement officer, that the animal was found on another person's property.

B. Owners are responsible, at the owner's expense, for removing animals found trespassing. The ACO may, at the owner's expense, remove and control the animal if the owner fails to remove the animal after having been notified that the animal was trespassing; or the animal is an immediate danger to itself, to persons, or to another's property.

**6.3.5 Proximity to bodies of water.**

In cases where the animals are kept on a property within 100 feet of a wetland, vernal pool, or waterbody, the owner must make provisions to control the runoff of pollution to such body.

**6.3.6 Prohibited acts.**

No person may sell eggs or engage in fowl breeding or fertilizer production for commercial purposes. The slaughtering of fowl is prohibited.

**6.3.7 Public beaches and parks – restriction.**

The following apply to all Town public beaches:

A. No dogs may be present on any of the Town public beaches year round.

B. If an animal is present on a beach in violation of this section, the owner of the animal and any responsible party are jointly and severally liable for the violation.

**CHAPTER 4. DOGS**

**6.4.1 Running at-large prohibited.**

No dog is permitted to run at-large within the limits of the town, however, this section does not prohibit the owner of a dog from using such dog for hunting provided the dog is under the control of its owner.

**6.4.2 Dogs not under voice control.**

If an animal approaches or remains within 10 feet of any person other than the owner, that animal is not under voice control and is a violation of this ordinance unless such person has communicated to the owner by spoken word or gesture that such person consents to the presence of the animal. In the case that such person approached by a dog is a minor child, an adult must be present with the child to consent to the presence of the animal.

**6.4.3 Right of entry to inspect license, dog.**

For the purpose of discharging the duties and enforcing the provisions imposed by this chapter, any ACO is empowered with the consent of the owner or occupant thereof, to enter upon any premises on which a dog is kept or harbored and demand the exhibition by the owner of the dog and the license of such dog.



**6.4.4 Hindering officers, improperly releasing dogs prohibited.**

No person may interfere with, hinder or molest, any ACO in the performance of the officer's duty, or seek to release any dog in the custody of an animal control authority, except as provided in this chapter.

**6.4.5 Impoundment authorized.**

A. Unlicensed dogs, wherever found, or dogs found running at-large, will be taken by an ACO and impounded in an animal shelter. Such animal may be confined for a period of not fewer than ten (10) days unless earlier reclaimed under the provisions of Section 6.4.6, below.

B. All dogs found at-large in violation to 7 MRS §3911 may be impounded at an animal shelter or returned to the owner, at the discretion of the ACO.

**6.4.6 Impoundment return/release.**

A. If the ACO returns the dog to its owner, the owner shall pay a return fee as set forth in Town Code Appendix A, Fee Schedules, before the dog is released. This payment must be made to the ACO, who shall issue a receipt.

B. Owners may reclaim an impounded animal by first paying a fee as set forth in Town Code Appendix A, Fee Schedules, for each animal impounded. This fee must be paid at the Police Department and a receipt must be presented to the animal shelter before the release of an animal.

B. Any dog impounded in accordance with this chapter may then be reclaimed upon payment of the total fees for board to the keeper of the animal.

**6.4.7 Impoundment fees.**

Return/impoundment fees will be deposited in the Town Municipal Animal Welfare Account required by 7 MRS §3945.

**6.4.8 Disposition of impounded dog, notification of impoundment.**

A. Where the ownership of an impounded dog is known, or can be reasonably ascertained by the ACO, the ACO shall attempt to notify the owner within three days of such impoundment. Failure to give such notice does not impose any liability upon the Town for the destruction, or transfer to another person, of any dog so impounded and not reclaimed within the required period.

B. Owners may reclaim an impounded dog upon compliance with Sections 6.4.5 and 6.4.6, above.

C. Any animal not claimed after the owner has been notified may be classified as an abandoned animal, and the animal's owner may be subjected to all civil penalties authorized by this ordinance.

D. If said animal is not claimed by its owner or keeper at the expiration of the ten days from the date of impoundment, then the person in charge of said animal shelter may give away, sell, or otherwise humanely dispose of, said animal.

**6.4.9 Dangerous dogs.**

A. Any person who is assaulted by a dog, or any person witnessing an assault against a person or domestic animal by a dog; or a person with knowledge of an assault against a minor by a dog; may make a written complaint to the ACO within thirty days of the assault that the dog is a dangerous dog.

B. The ACO may issue a civil violation citation for keeping a dangerous dog pursuant to 7 MRS §3952. After issuing the citation and before a court hearing, if the dog poses an immediate or continuing threat to the public, the ACO shall order the owner of the dog to muzzle, restrain, or confine, the dog to the owner's premises; or to have the dog placed at the owner's expense at a place determined by the ACO.



C. If the owner fails to comply with such order, the ACO may apply to the District Court, Superior Court, or a Justice of the Peace, pursuant to 7 MRS §3952 for an ex parte order for authorization to take possession of the dog that poses an immediate or continuing threat to the public.

**6.4.10 Disposition of dog biting a person.**

A. Whenever any dog bites a person, the owner of such dog must immediately notify the ACO who may order the dog held on the owner's premises or have it impounded for a period of two weeks.

B. The dog must be examined immediately after it has bitten any person and again at the end of the two-week period. If at the end of the two weeks a veterinarian is convinced that the dog is then free from rabies the dog is released from quarantine or from the pound as the case may be.

C. If the dog dies within the period, its head must be sent to the state department of health for rabies examination.

**CHAPTER 5. DOMESTIC POULTRY**

**6.5.1 Number and type of poultry allowed.**

No more than six (6) fowl are allowed per single-family detached dwelling property. No fowl are permitted within multi-family complexes, including duplexes. Only female fowl are permitted with no restriction on fowl species.

**6.5.2 Non-commercial use only.**

Fowl may be kept as pets and for personal use only; no person may sell eggs or engage in fowl breeding or fertilizer production for commercial purposes. The slaughtering of fowl is prohibited.

**6.5.3 Enclosures.**

A. Enclosures must be clean, dry, and odor-free, kept in a neat and sanitary condition at all times, in a manner that will not disturb the use or enjoyment of neighboring lots due to noise, odor or other adverse impact.

B. The enclosures must provide adequate ventilation and adequate sun and shade and must both be impermeable to rodents, wild birds, and predators, including dogs and cats.

**6.5.5 Fencing and screening.**

A. Fencing must be erected to confine animals to an established area of the property. The fencing must be of a height that does not allow the animals to leave the fenced-in area without human assistance. Fencing must take into account existing conditions in the neighborhood. Appropriate types of fencing include chicken wire, stockade, and picket. The use of chain-link fencing for the enclosure of domesticated fowl is prohibited.

B. Vegetative buffering must be used to completely screen the area from abutting properties when non-solid fencing is used. Upon receiving more than one complaint, the owner of the fowl shall meet the fencing and screening requirements.

**6.5.6 Feed and water.**

Fowl must be provided with access to feed and clean water at all times. Such feed and water must be unavailable to rodents, wild birds and predators.

**6.5.7 Lighting.**

Lighting to protect fowl from predators and intruders must be a ninety-degree cut-off luminaire (no light emitted above horizontal). All lighting must be set to a motion detector so that the lighting is turned off when no motion is detected.



**6.5.8 Waste storage and removal.**

Provision must be made by the owner for the storage and removal of fowl manure. All stored manure must be covered by a fully enclosed structure with a roof or lid over the entire structure. No more than three (3) cubic feet of manure may be stored. All other manure not used for composting or fertilizing must be removed. In addition, enclosures and surrounding area must be kept free from trash and accumulated droppings. Uneaten feed must be removed in a timely manner.

**6.5.9 Odor and noise impacts.**

Odors from fowl, fowl manure, or other fowl-related substances must not be perceptible at the property boundaries. Perceptible noise from fowl must not be loud enough at the property boundaries to disturb persons of reasonable sensitivity.

**6.5.10 Predators, rodents, insects, and parasites.**

A. The owner must take necessary action to reduce the attraction of predators and rodents and the potential infestation of insects and parasites; and, take necessary action to prevent the entry of rodents and/or predators into the fowl living area.

B. Fowl found to be infested with insects and parasites that may result in unhealthy conditions to human habitation must be removed by the ACO. The ACO may delay the removal of the animals through the establishment and completion of a plan of action.

C. Fowl that are not housed in an environment that prevents the infestation of rodents may be removed by the Animal Control Office.

**6.5.10 Removal of poultry.**

A. Any violation of the provisions of this ordinance or of the permit is grounds for an order from the Code Enforcement Officer to remove the fowl and the fowl-related structures.

B. The Public Health Officer, or ACO may also order the removal of the fowl upon a determination that the fowl pose a health risk. If a fowl dies, it must be disposed of promptly in a sanitary manner.